



Early Engagement Input
Draft DoD Process for Section 3610 Reimbursement: Overarching Guidance
Section 3610 of the CARES Act

To Whom it May Concern

Please consider the recommendations below as you develop guidance to implement Section 3610 of HR 748, the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

1. Question 6a in the “DoD Checklist for Submission of Section 3610 Reimbursement Requests” requires contractors who obtain a PPP loan and remain eligible for reimbursement under Section 3610 of the CARES Act must indicate whether they anticipate meeting the conditions for loan forgiveness identified in Section 1106 of the CARES Act and exclude the anticipated loan forgiveness amount from any request for reimbursement under Section 3610. However, a contractor’s PPP loan may not be forgiven or may not be forgiven in full. We recommend clarifying Question 6a by adding, “If the PPP loan is not forgiven in full, the contractor may request reimbursement, under Section 3610, of the eligible paid leave cost which were not covered through PPP loan forgiveness.”
2. We understand that the newly created cost category, ODC-COVID-19, represents an option that contractors may employ. However, given that not every company has the same indirect rate structure, the use of such a cost category could create allocation issues for some contractors. For example, paid leave costs may be included in a different allocation base than ODCs and could result in an incorrect indirect rate application. We recommend clarifying that there are multiple options for the classification of the paid leave costs, reimbursable under Section 3610 of the CARES act, including the use of newly created cost categories such ODC-COVID-19 or Paid Leave-COVID-19.
3. We understand that contractors who receive PPP loans and reimbursement under Section 3610 could be reimbursed or otherwise paid twice. Question 6a in the “DoD Checklist for Submission of Section 3610 Reimbursement Requests” requires contractors who obtain a PPP loan and remain eligible for reimbursement under Section 3610 of the CARES Act must indicate whether they anticipate meeting the conditions for loan forgiveness identified in Section 1106 of the CARES Act and exclude the anticipated loan forgiveness amount from any request for reimbursement under Section 3610. However, PPP loans may cover non-labor cost such as rent and utilities. We recommend revising the question 6a to state, “If yes, the loan forgiveness amount which covers fully burdened paid leave costs must be excluded from any request for reimbursement under Section 3610.

Thank you for considering these recommendations as you advance this guidance.

Respectfully submitted,
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